



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0301; FRL-9991-63-Region 4]

Air Plan Approval; NC: Readoption of Air Quality Rules and Removal of the Oxygenated Gasoline Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision submitted by the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), on March 21, 2018, readopting and amending several air quality rules, and requesting to remove the rules for the oxygenated gasoline program. This SIP revision also contains a non-interference demonstration, which concludes that removing the oxygenated gasoline program would not interfere with attainment or maintenance of the National Ambient Air Quality Standards (NAAQS). EPA has determined that North Carolina's March 21, 2018, SIP revision is consistent with the applicable provisions of the Clean Air Act (CAA or Act).

DATES: This rule will be effective [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0301. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e.,

Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9992. Ms. Sheckler can also be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is taking final action to approve North Carolina's March 21, 2018, SIP revision seeking to readopt and amend various air quality rules and to remove the rules for the oxygenated gasoline program from North Carolina's SIP.

North Carolina requested that EPA approve the removal of rules in 15A NCAC 2D¹ Section .1300, *Oxygenated Gasoline Standard* (hereinafter referred to as the oxygenated gasoline program) from the North Carolina SIP. To support the request to remove the rules for the oxygenated gasoline program from the SIP, North Carolina's SIP revision contained technical support material to demonstrate that the removal of the program will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA.

In addition, the SIP revision addressed State rules amended and readopted in 15A NCAC Subchapter 2D sections .0100, *Definitions and References*, .0200, *Air Pollution Sources*, .0300, *Air Pollution Emergencies*, and .0400, *Ambient Air Quality Standards*. More specifically, the following rules were amended and updated:

.0101, *Definitions*

.0103, *Copies of Referenced Federal Regulations*

.0104, *Incorporation by Reference*

.0105, *Mailing List*

.0201, *Classification of Air Pollution Sources*

.0202, *Registration of Air Pollution Sources*

.0302, *Episode Criteria*

.0303, *Emission Reduction Plans*

.0304, *Preplanned Abatement Program*

.0305, *Emission Reduction Plan: Alert Level*

¹ In the table of North Carolina regulations federally-approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02D is referred to as "Subchapter 2D Air Pollution Control Requirements."

.0306, *Emission Reduction Plan: Warning Level*

.0307, *Emission Reduction Plan: Emergency Level*

.0401, *Purpose*

.0402, *Sulfur Oxides*

.0404, *Carbon Monoxide*

.0407, *Nitrogen Dioxide*

.0408, *Lead*

.0409, *PM₁₀ Particulate Matter*

.0410, *PM_{2.5} Particulate Matter*

Rule .0101, *Definitions*, is amended to update the format of units and references while, Rules .0103, .0104, and .0105 are amended to update the agency name, addresses and to include web referenced documents and costs.

Section .0200, *Air Pollution Sources*, is amended for clarity and to update the formatting and references. EPA notes that the proposed rule (*see* 84 FR 2109) dated February 6, 2019, included an error by listing Section .0200, *Air Pollution Sources*, in the discussion as both rules that were submitted for readoption only and as rules that were being amended. These rules had minor changes and should have been included in the amended rules section. EPA further notes that the changes – along with the rest of the March 21, 2018, SIP submittal – were available to the public during the comment period in the docket of this action.

Section .0300, *Air Pollution Emergencies*, addresses the prevention of buildup of air contaminants during an air pollution episode to prevent a public health emergency. Rule .0302 is amended to update the format of units, to update who proclaims air quality alerts and warnings

and declarations of emergency at various pollutant levels requiring abatement actions from the Director to the Secretary's level with concurrence of the Governor, to remove obsolete pollutant levels triggering such proclamations or declarations and to renumber the subsections because of the changes. The amendments to Rules .0303 and .0304 update the format of references for emission reduction plans and preplanned abatement programs. Rules .0305, .0306, and .0307 are amended to eliminate redundant language in paragraph (b)(4) that is already reflected in Paragraph (a)(2) for open burning requirements in emission reduction plans.

Section .0400, *Ambient Air Quality Standards*, contains the ambient air quality standards and associated monitoring methodologies for the State and to be consistent with the NAAQS. Specifically, Rules .0401 and .0409, and .0410 are amended to update the format of units and references, while administrative changes were made to .0402, .0404, .0407, and .0408.

EPA proposed approval of the North Carolina March 21, 2018, SIP revision to remove the oxygenated gasoline program and amend and re-adopt state regulations, as mentioned above, on February 6, 2019 (*see* 84 FR 2109). The details of North Carolina's submission and the rationale for EPA's actions are explained in the proposed rulemaking. EPA did not receive any relevant comments on the proposed action. EPA is now taking final action to approve the above-referenced revision.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference the following air quality rules in Subchapter 2D Air Pollution Control Requirements, Sections .0101, *Definitions*, .0103, *Copies of Referenced Federal*

Regulations, .0104, Incorporation by Reference, .0105, Mailing List, .0201, Classification of Air Pollution Sources, .0202, Registration of Air Pollution Sources, .0302, Episode Criteria, .0303, Emission Reduction Plans, .0304, Preplanned Abatement Program, .0305, Emission Reduction Plan: Alert Level, .0306, Emission Reduction Plan: Warning Level, .0307, Emission Reduction Plan: Emergency Level, .0401, Purpose, .0402, Sulfur Oxides, .0404, Carbon Monoxide, .0407, Nitrogen Dioxide, .0408, Lead, .0409, PM₁₀ Particulate Matter, .0410, PM_{2.5} Particulate Matter, state effective January 1, 2018. EPA is also finalizing the repeal of the oxygenated gasoline rules under Subchapter 2D at Sections .1301, .1302, .1303, .1304, .1305.

EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.²

III. Final Action

EPA is taking final action to approve the above-referenced changes to the State of North Carolina SIP because they are consistent with the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40

² *See* 62 FR 27968 (May 22, 1997).

CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, if they meet the criteria of the CAA. These actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days**

after date of publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Carbon monoxide, Sulfur dioxide, Particulate Matter, Lead, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 21, 2019.

Mary S. Walker,

Acting Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart II—North Carolina

2. Amend § 52.1770(c)(1), under “Subchapter 2D Air Pollution Control Requirements” by:

- a. Revising the entries for “Section .0101”, “Section .0103”, “Section .0104”, “Section .0105”, “Section .0201”, “Section .0202”, “Section .0302”, “Section .0303”, “Section .0304”, “Section .0305”, “Section .0306”, “Section .0307”, “Section .0401”, “Section .0402”, “Section .0404”, “Section .0407”, “Section .0408”, “Section .0409”, and “Section .0410”, and
- b. Removing the heading “Section .1300 Oxygenated Gasoline Standard” including the entries “Section .1301” through “Section .1305”.

The revisions reads as follows:

§ 52.1770 Identification of plan.

(c) * * *

(1) EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Subchapter 2D Air Pollution Control Requirements				
Section .0100 Definitions and References				

Section .0101	Definitions	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0103	Copies of Referenced Federal Regulations	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0104	Incorporation by Reference	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0105	Mailing List	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0200 Air Pollution Sources				
Section .0201	Classification of Air Pollution Sources	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	

Section .0202	Registration of Air Pollution Sources	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0300 Air Pollution Emergencies				
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Section .0302	Episode Criteria	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0303	Emission Reduction Plans	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0304	Preplanned Abatement Program	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	

Section .0305	Emission Reduction Plan: Alert Level	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0306	Emission Reduction Plan: Warning Level	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0307	Emission Reduction Plan: Emergency Level	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0400 Ambient Air Quality Standards				
Section .0401	Purpose	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0402	Sulfur Oxides	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	

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Section .0404	Carbon Monoxide	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
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Section .0407	Nitrogen Dioxide	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0408	Lead	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
Section .0409	PM ₁₀ Particulate Matter	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	

Section .0410	PM _{2.5} Particulate Matter	1/1/2018	[Insert date of publication in <u>Federal Register</u>] [Insert Federal Register citation]	
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[FR Doc. 2019-06734 Filed: 4/9/2019 8:45 am; Publication Date: 4/10/2019]